

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FORTINET, INC.,

Plaintiff,

v.

SOPHOS, INC., et al.,

Defendants.

Case No. 13-cv-05831-EMC

**ORDER RE SUPPLEMENTAL
BRIEFING**

Docket No. 218

Currently pending before the Court is Plaintiff Fortinet, Inc.’s motion for summary judgment. *See* Docket No. 218 (motion). At the hearing on the motion, Fortinet raised an argument that it had not explicitly made in its papers with respect to the alleged invalidity (indefiniteness) of claim 9 of the ‘587 patent. More specifically, Fortinet argued that the first means-plus-function limitation in claim 9 (“means in a first data processor of the network for providing a second data processor of the network with a copy of an item of data which is stored for access by the first data processor”) was indefinite pursuant to *Aristocrat Techs. Australia Pty Ltd. v. Int’l Game Tech.*, 521 F.3d 1328 (Fed. Cir. 2008).¹

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¹ To be clear, *Aristocrat* was cited in Fortinet’s opening brief to the extent the PTAB had cited the case in its decision on which Fortinet relied.

1 Because this argument was not fully fleshed out in the parties' briefs, the Court hereby
2 orders supplemental briefing as to whether the first means-plus-function limitation in claim 9 is
3 indefinite under *Aristocrat*. Each party shall file a supplemental brief by 12:00 p.m., October 16,
4 2015. The brief shall be no longer than five pages.

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6 **IT IS SO ORDERED.**

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8 Dated: October 14, 2015



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10 EDWARD M. CHEN
11 United States District Judge
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